

# ADR

**ALTERNATIVE**  
***DISPUTE***  
**RESOLUTION**



Division of  
**Consumer**  
**Affairs**

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## What is ADR?

Alternative Dispute Resolution (ADR) is a method of resolving problems without use of the court system. Successful use of ADR avoids the need for often costly and lengthy legal battles. The need for ADR has become so apparent that the New Jersey Supreme Court requires parties in certain legal proceedings to submit to court-sponsored mediation before being allowed to appear before a judge.

The term “ADR” is broadly defined and includes various types of dispute resolution. The ADR Unit of the New Jersey Division of Consumer Affairs (Division) uses the two most common forms: mediation and arbitration.

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## History

Faced with a growing caseload within its Office of Consumer Protection, the Division established its ADR Unit in 1992. It serves as an independent, impartial, non-advocacy agency within the Division.

Starting with 12 volunteer mediators, the unit currently utilizes about 25 volunteers who mediate about 1,500 cases per year, resolving disputes totaling approximately \$500,000 annually. Most of the participants in our ADR program have said that they found the process to be very good or excellent.

Due to its success, the ADR Unit’s role was expanded to incorporate many professional and licensing boards including the State Board of Medical Examiners, the New Jersey State Board of Cosmetology and Hairstyling and the New Jersey State Board of Architects.

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## What are Mediation and Arbitration?

**Mediation** is an informal, voluntary process in which a neutral third party assists those in conflict to reach a resolution which is acceptable to all parties. The mediator is not the decision maker, but he or she helps the disputing parties resolve conflicts by exploring all of the options and managing the negotiation process.

While mediation is a completely voluntary process, should the parties reach an agreement, the agreement is binding and enforceable in court, as is any other contract. If the parties do not reach a mutually acceptable agreement, they are free to pursue legal action.

**Arbitration** is a voluntary legal process which takes place outside of the courts. In arbitration a neutral third party acts as a decision maker. Unlike mediation, the award issued by the arbitrator is legally binding and generally cannot be appealed. The arbitrator does not have to be a lawyer nor do the parties have to bring lawyers to the hearing. Those involved receive the opportunity to present their case to the arbitrator in their own words, without an overly structured, formal hearing.

When matters are arbitrated, parties are required to sign an Arbitration Agreement. Should either party fail to live up to the arbitrator's decision, the other party may go to the court of appropriate jurisdiction to have the award enforced.

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## Who Serves as Mediators or Arbitrators?

Mediators and arbitrators are volunteers drawn from all walks of life. They are required to complete a three-day training seminar conducted by the director of the ADR Unit. The use of volunteers provides a significant financial savings to the State, while still offering top-quality service to ADR's clients.

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## Confidentiality

Confidential information will not be revealed without the explicit permission of both parties. All discussions and documents disclosed during a mediation session will remain confidential and neither the documents nor the mediator may be subpoenaed. Only whether the mediation was resolved successfully will be considered as public information.

The arbitration process is also confidential and not open to the public. The award issued by the arbitrator is, however, considered a matter of public record.

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## What are the advantages of using ADR?

- ▶ Matters are dealt with promptly and disputes are generally settled faster.
- ▶ Participants may be able to avoid time-consuming and expensive litigation.
- ▶ The service of trained volunteer mediators is free.

*August 2006*



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